

DISCIPLINE DECISION

REVIEWING PANEL: Caroline Brett, Public Member
Joe Wade, Discipline Tribunal Chair, Registrant
Wally Pietraszko, Registrant

IN THE MATTER OF A DISCIPLINE HEARING HELD PURSUANT TO THE MOTOR VEHICLE
DEALERS ACT, 2002, S.O. 2002, c.30, Sch. B

B E T W E E N :

ONTARIO MOTOR VEHICLE INDUSTRY COUNCIL)
- and -)
AVANTGARDE INVESTMENTS INC. o/a HONDA QUEENSWAY)
- and -)
LORENZO M. D’ALESSANDRO)
- and -)
MICHAEL TIMOTHY CARROLL)

This matter proceeded by way of Rule 1.07 of the Rules of Practice before the Discipline Tribunal and the Appeals Tribunal. This Reviewing Panel has reviewed and considered written materials from the Parties together with a waiver of the requirement for an oral hearing and hereby makes the following Order:

Date of Decision: November 19, 2024

Findings: **Avantgarde Investments Inc o/a Honda Queensway (the “Dealer”) has breached the following:**

- Sections 4(2) and 9(3) of the Code of Ethics, O. Reg. 332/08

Lorenzo M. D'Alessandro has breached the following:

- Sections 6(2) and 9(3) of the Code of Ethics, O. Reg. 332/08

Michael Timothy Carroll has breached the following:

- Sections 6(2) and 9(3) of the Code of Ethics, O. Reg. 332/08

Order:

1. Avantgarde Investments Inc (the "Dealer") shall pay a fine in the amount of **\$2,500** no later than ninety (90) calendar days from November 19, 2024.
2. Lorenzo M. D'Alessandro ("D'Alessandro") shall successfully complete the MVDA Key Elements Course no later than ninety (90) calendar days from November 19, 2024.
3. Michael Timothy Carroll ("Carroll") shall successfully complete the MVDA Key Elements Course no later than ninety (90) calendar days from November 19, 2024.
4. The Dealer shall **offer** to all current and future salespersons, employed by the Dealer, to **fund** their completion of the Automotive Certification Course, no later than ninety (90) calendar days from November 19, 2024.
5. The Dealer, D'Alessandro, and Carroll shall comply with the *Motor Vehicle Dealers Act, 2002*, O. Reg. 333/08, O. Reg. 332/08 and its Code of Ethics, and the Standards of Business Practice.

Overview

This matter proceeded on the basis of an Agreed Statement of Facts, dated August 23, 2024, a Joint Submission on Penalty and a waiver of oral hearing, pursuant to Rule 1.07 of the Rules of Practice before the Discipline Tribunal and the Appeals Tribunal. The Agreed Statement of Facts states in relevant part as follows:

Amendment:

1. The NOC is amended to reflect that the Ontario Motor Vehicle Industry Council ("OMVIC") replaces the Registrar, *Motor Vehicle Dealers Act, 2002* as a party to this proceeding.

Background:

2. Avantgarde Investments Inc o/a Honda Queensway (the "Dealer") was first registered as a motor vehicle dealer in and around March 1987.
3. Lorenzo M. D'Alessandro ("D'Alessandro") was first registered as a salesperson in and around October 1985. At all material times, D'Alessandro has been an Officer and a Person in Charge of the day-to-day activities of the Dealer.

4. Michael Timothy Carroll (“Carroll”) was first registered as a salesperson in and around November 2005 and his registration as a salesperson was terminated on or about February 29, 2024. At all material times, Carroll has been a General Manager and a Person in Charge of the day-to-day activities of the Dealer. Carroll ceased being a General Manager and a Person in Charge of the day-to-day activities of the Dealer on or about February 29, 2024.

OMVIC Publications:

5. Since the *Motor Vehicle Dealers Act, 2002* (the “Act”) was proclaimed in 2010, OMVIC has issued various educational materials, including publications, webinars and guidelines, reminding registrants of their all-in pricing obligations. The dates of said publications are attached hereto as Schedule “A”. Educational materials continue to be available on OMVIC’s website.

Dealer’s Non-Compliance:

6. On or before October 26, 2022, an advertisement for a silver 2022 Honda Civic LX CVT, stock# PH380 (VIN# *109999) (the “Silver Civic”) with an advertised price of \$32,489 plus taxes and licensing was published on the Dealer’s Website.
7. On or about this same date, OMVIC Representatives made inquiries about the Silver Civic, while posing as members of the public.
8. A salesperson, acting on behalf of the Dealer, provided the OMVIC Representatives with a “Retail Stockcard” for the Silver Civic. In the “Retail Stockcard”, the following additional charges were added above the advertised price for the Silver Civic:
 - a. 3-Year Security Package fee of \$399
 - b. OMVIC fee of \$10
9. One of the OMVIC Representatives asked if they were required to pay for the security package and the salesperson advised that the Dealer included the security package on all of its vehicles. The salesperson did not advise that the fee was optional.
10. Subsequent to receiving the NOC, the Dealer indicated the following to OMVIC:
 - a. The Dealer’s “Retail Stockcards”, which also displayed additional charges, were generated based on information from its dealership management system.
 - b. The Dealer’s website failed to incorporate the additional charges present in the dealership management system for the Silver Civic when calculating the advertised vehicle price.
 - c. The Dealer has made changes to its dealership management system and website since the visit from the OMVIC Representatives and prior to receipt of the NOC from OMVIC. These changes have been made in order to prevent further discrepancies between “Retail Stockcards” and advertised vehicle prices.
11. Nevertheless, the Dealer’s advertised vehicle price for the Silver Civic in October 2022 was not all-inclusive. This is contrary to section 36(7) of O. Reg. 333/08, as well as sections 4(2) and 9(3) of the Code of Ethics.

D'Alessandro's Non-Compliance:

12. D'Alessandro failed to ensure that the Dealer conducted its business in respect of the Silver Civic in compliance with the Act, its regulations, and the Code of Ethics and thus personally contravened sections 6(2) and 9(3) of the Code of Ethics.

Carroll's Non-Compliance:

13. Carroll failed to ensure that the Dealer conducted its business in respect of the Silver Civic in compliance with the Act, its regulations, and the Code of Ethics and thus personally contravened sections 6(2) and 9(3) of the Code of Ethics.

14. As particularized above, the Dealer has violated the following section of the Code of Ethics:

Disclosure and marketing

s. 4(2) A registrant shall ensure that all representations, including advertising, made by or on behalf of the registrant in connection with trading in motor vehicles, are legal, decent, ethical and truthful.

15. As particularized above, the Dealer, D'Alessandro, and Carroll have violated the following section of the Code of Ethics:

Professionalism

s. 9(3) A registrant shall use the registrant's best efforts to prevent error, misrepresentation, fraud or any unethical practice in respect of a trade in a motor vehicle.

16. As particularized above, D'Alessandro and Carroll have violated the following section of the Code of Ethics:

Accountability

s. 6(2) A registered salesperson shall not do or omit to do anything that causes the registered motor vehicle dealer who employs or retains the salesperson to contravene this Regulation or any applicable law with respect to trading in motor vehicles.

Decision of the Reviewing Panel

Having reviewed and considered the Agreed Statement of Facts and written submissions provided by the Parties, the Reviewing Panel is satisfied that the evidence contained in the Agreed Statement of Facts substantiates the allegations that: (1) the Dealer has breached subsections 4(2) and 9(3) of the OMVIC Code of Ethics; (2) D'Alessandro has breached subsections 6(2) and 9(3); and (3) Carroll has breached subsections 6(2) and 9(3) of the OMVIC Code of Ethics.

The Reviewing Panel accepted the Joint Submission on Penalty for the reasons that follow.

Reasons for Decision

The evidence and submissions filed left the Reviewing Panel with no concerns that the disposition proposed by the Parties may be contrary to the public interest. The Reviewing Panel accordingly granted the order requested.

Dated: November 19, 2024

Ontario Motor Vehicle Industry Council
Discipline Tribunal

A handwritten signature in black ink, appearing to read 'Joe Wade', is written over a horizontal line. The signature is stylized with a large loop on the left side.

Joe Wade, Discipline Tribunal Chair
On behalf of:

Caroline Brett, Public Member
Wally Pietraszko, Registrant Member

